

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
IN THE MATTER OF THE COMPLAINT

Civil Action No.: 07 CV 163 (LDW)

of

ARTHUR SETTER, as owner of M/V  
PACESETTER, a 1985 40-foot  
SILVERTON for Exoneration from or  
Limitation of Liability,

Petitioner.

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**AMENDED ORDER RESTRAINING  
SUITS, APPROVING PETITIONER'S  
SECURITY, DIRECTING ISSUE  
OF NOTICE AND  
THE FILING OF CLAIMS**

**WHEREFORE**, a Complaint having been filed herein on January 12, 2007, by the above-named Petitioner as the owner of M/V PACESETTER, a 1985 40-foot SILVERTON (hereinafter the "Vessel") for Exoneration from or Limitation of Liability, pursuant to 46 U.S.C. §30501 *et seq.*, and Rule F of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure concerning any alleged claims, damages, and/or losses arising out of or resulting from an accident alleged to have occurred on September 28, 2006, while aboard Petitioner's vessel while it was docked upon navigable waters in Oakdale, Suffolk County, State of New York, as more fully described in the Complaint; and

**WHEREAS**, the Complaint filed having stated that the value of the Petitioner's interest in the Vessel did not exceed the sum of \$73,000 on the date of the alleged accident; and

**WHEREAS**, the Petitioner has filed with the Court an *Ad Interim* Security dated January 9, 2007, for the benefit of any and all claimants, with surety, equal to the amount or value of Petitioner's interest in the said Vessel, with interest at six percent (6%) per annum from the date hereof, executed by marine insurer, The Standard Fire Insurance Company, it is hereby,

**ORDERED** that the above-described *Ad Interim Security* in the sum of \$73,000 with interest as aforesaid, filed by Petitioner for the benefit of any and all claimant(s) as security representing the Petitioner's interest in the Vessel, be and is **hereby approved**, and

**IT IS FURTHER ORDERED** that the Court, only upon motion and good cause shown, shall cause appraisalment of the value of the Vessel and may thereupon order said security increased or reduced if it finds the amount thereof insufficient or excessive, and

**IT IS FURTHER ORDERED** that any Claimant in these proceedings may express, only upon good cause shown and by written motion filed with the Court and served upon all parties of record, its dissatisfaction with The Standard Fire Insurance Company as surety. In this event, Petitioner shall within thirty (30) days of the entry of an order by the Court concerning the surety, cause security to be posted in the form provided by Supplemental Rule F(1) of the Federal Rules of Civil Procedure and satisfactory to this Court failing which the injunction entered concurrently herewith will be vacated as to all Claimants, and the Court will make such further orders as the justice of the cause may require, and

**IT IS FURTHER ORDERED** that a Notice shall be issued by the Clerk of this Court to all persons asserting claims or suits with respect to which the Complaint seeks Exoneration from or Limitation of Liability admonishing them to file their respective claims with the Clerk of this Court, in writing, and to serve on the attorneys for the Petitioner a copy thereof, **ON OR BEFORE THE**


6<sup>TH</sup> DAY OF July 2007, or be defaulted; and that if any Claimant desires to contest either the right to Exoneration from or the right to Limitation of Liability, such Claimant shall file and serve on the attorneys for the Petitioner, James E. Mercante, Esq., RUBIN, FIORELLA & FRIEDMAN LLP, 292 Madison Avenue, 11<sup>th</sup> Floor, New York, New York 10017, an Answer to the Complaint on or before the said date, (unless the claim has included an Answer to the Complaint, so designated), or be defaulted, and

**IT IS FURTHER ORDERED** that the aforesaid **Amended Notice shall be published by Petitioner** in **NEWSDAY**, a newspaper with a general circulation including Suffolk County, New York, once a week for four (4) weeks before the return date of said Notice, as provided by the aforesaid Supplemental Admiralty Rule "F" and copies of said Notice shall be mailed by Petitioner in accordance with the rule to every person known to have any claim against the Vessel or Petitioner, or to his attorneys, and

**IT IS FURTHER ORDERED** that the further prosecution of any and all actions, suits and proceedings already commenced and the commencement or prosecution hereafter of any and all suits, actions, or proceedings of any nature and description whatsoever in any Court of any jurisdiction, or otherwise, against the Vessel owner, and/or the Vessel, and the taking of any steps and the making of any motion in such actions, suits or proceedings except in this action, to recover damages for or in respect to the aforesaid accident alleged in the Complaint, **be and they hereby are restrained, stayed and enjoined** until the hearing and determination of this action, and all warrants of arrest and/or attachment issued or sought in such other suits, actions or legal proceedings be and the same are hereby dissolved and further warrants of arrest and/or attachment are hereby prohibited, and

**IT IS FURTHER ORDERED** that service of this Order as a Restraining Order be made through the Post Office by mailing a conformed copy hereof to the person or persons to be restrained, or to their respective attorneys.

This 21<sup>st</sup> day of May 2007

  
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UNITED STATES DISTRICT JUDGE  
CENTRAL Islip, NY